

Notice of Allowability

Application No.

10/780,002

Examiner

Medina A. Ibrahim

Applicant(s)

KLESSIG ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephonic interview of 10/18/06.
2. ☒ The allowed claim(s) is/are 1-9, 24-26, 28-32, 44, and 51-52, renumbered as 1-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kathleen Riguat on 10/18/06.

The application has been amended as follows:

In The Title:

In the title, "novel" has been deleted.

In The Claims:

Claim 1 (Currently amended). An isolated SABP2 nucleic acid molecule comprising a nucleotide sequence selected from the group consisting of:

- a) the nucleotide sequence of SEQ ID NO: 2; and
- b) a nucleotide sequence encoding the polypeptide of SEQ ID NO: 2; [and
- d) a homolog having a sequence of SEQ ID NO: 36.]

At claim 3, ---nucleotide--- is inserted before "sequence".

Claim 4 (Currently amended). [A cDNA produced by reverse transcription of an mRNA encoded by the] The isolated nucleic acid molecule of claim 1, which is a DNA molecule.

Claim 8 (Currently amended). A [The] host cell transformed with the [an] expression vector of claim 6.

Claim 9 (Currently amended). The [A] host cell of claim 8, wherein said host cell is selected from the group consisting of a plant cell [tobacco, Arabidopsis, rice, maize, wheat, soybean, tomato, potato, barley, canola,] bacterial cell, yeast cell, and insect cell [and mammalian cells].

Claims 10-20 and 22-23 are cancelled.

Claim 24 (Currently amended). A method for enhancing [to enhance] resistance of a plant to a plant pathogen[s or other disease causing agents] comprising [overexpressing an SABP2] transforming the plant with the nucleic acid molecule of claim 1 [in a plant cell of said plant, wherein said overexpression of said SABP2 nucleic acid molecule enhances the resistance of said plant to plant pathogens or other disease causing agents].

Claim 26 (Currently amended). The method of claim 24, wherein the [homolog comprises the] nucleic acid molecule encodes [of] SEQ ID NO: 2 [36].

Claim 27 is cancelled.

At claim 28, ---isolated--- is inserted before "nucleic".

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At claim 29, "fertile" is replaced with ---tobacco---.

Claim 32 (Currently amended). The transgenic plant of claim 28, wherein [said homolog comprises] the nucleic acid molecule encodes [sequence of] SEQ ID NO: 2 [36].

Claims 33-43 are cancelled.

Claim 44 (Currently amended). The method of claim 24, wherein said [overexpression of said SABP2] nucleic acid molecule is overexpressed in said plant, and wherein said overexpression enhances the resistance of said plant to a plant pathogen [comprises transforming the plant cells of said plant with said nucleic acid molecule of claim 1].

Claims 45-50 are cancelled.

Claim 51(New). The host cell of claim 8, wherein said plant cell is from a plant selected from the group consisting of tobacco, Arabidopsis, rice, maize, wheat, soybean, tomato, potato, barley, and canola.

Claim 52 (New). The method of claim 24, further comprising contacting said plant or a plant cell obtained therefrom with a pathogen responsive agent, and assaying

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SABP2 function in the presence or absence of said agent in said plant, plant cell or extracts thereof.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Medina A. Ibrahim whose telephone number is (571) 272-0797. The Examiner can normally be reached Monday -Thursday from 8:00AM to 5:30PM and every other Friday from 9:00AM to 5:00 PM . Before and after final responses should be directed to fax nos. (703) 872-9306 and (703) 872-9307, respectively.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anne Marie Grunberg, can be reached at (571) 272-0975.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/12/06

Mai

MEDINA A. IBRAHIM
PRIMARY EXAMINER
